Supreme Court, U.S.
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No. 05-523

In The

Supreme Court of the United States

MARY MILES,

Petitioner,

v.

SIERRA CLUB et al.,

Respondents.

On Petition For A Writ Of Certiorari To The Court Of Appeal Of The State Of California, First Appellate District

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the First Amendment requires a defamed individual to meet the heavy burdens imposed on limited purpose public figures when she has engaged in only private conduct, and there was no public controversy that gave rise to the defamatory speech.

2. Whether unrelated conduct that occurred before any particular controversy giving rise to the defamatory speech can convert a private individual into a limited purpose public figure.

PARTIES TO THE PROCEEDINGS BELOW

In addition to the parties named in the caption, the following parties appeared below as defendants and respondents: Ronald Guenther and Roanne Withers.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner Mary Miles respectfully prays that a writ of certiorari issue to review the judgment and opinion of the First District Court of Appeal for the State of California entered and filed in the above-entitled proceedings on April 20, 2005.

OPINIONS BELOW

The opinion of the Court of Appeal of California, First Appellate District, appears in Appendix A. It is unpublished in the California Reports, but appears at 2005WL906357, and 2005 Cal.App.Unpub. LEXIS 3471.

JURISDICTION

The opinion of the Court of Appeal of California, First Appellate District, was entered and filed on April 20, 2005, and appears as Appendix A. The Court of Appeal denied a timely petition for rehearing on May 13, 2005. App. E. On June 3, 2005, petitioner timely filed a petition for review with the California Supreme Court, which was denied by order filed July 13, 2005. App. B. This petition for certiorari is filed within 90 days of that date, and this Court's jurisdiction is invoked under 28 U.S.C. section 1257, subdivision (a).

CONSTITUTIONAL PROVISION INVOLVED

United States Constitution, Amendment I:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

STATEMENT OF THE CASE

This libel action arose out of the respondents' publication of a March 31, 1999 letter regarding petitioner Mary Miles. Respondents Ron Guenther and Roanne Withers wrote the letter to Sierra Club Executive Director Carl Pope on official Sierra Club letterhead, and sent copies to individuals, prominent environmental organizations, and two newspapers. The letter is reproduced in Appendix F.

Following trial, a jury concluded that the letter contained false and defamatory statements about Miles, but that she had not established by clear and convincing evidence that the defamation had been made with knowing or reckless falsity. App. C at A-48. Since the trial court had pronounced Miles a limited purpose public figure, judgment was entered against her. App. C at A-47-48. The Court of Appeal of California, First Appellate District, affirmed the judgment, App. A at A-45, and the California Supreme Court denied a timely petition for review. App. B at A-46.

Respondent Sierra Club is an environmental organization that governs its members by subentities called chapters and groups. Respondents Guenther and Withers

were, respectively, the chair and secretary of the Mendocino/Lake Group (the "Group"), a 1,000 member subunit of the Sierra Club's Redwood Chapter. They lived together and ran the Group out of their home.

Petitioner Mary Miles is an attorney and a longtime member of the Sierra Club who was living in Mendocino County in the late 1990s. She became concerned that the Group was not being run democratically and did not adequately represent all of its members. In 1998, she communicated with the chair of the Redwood Chapter, Marianne de Sobrino, about forming an inland group. Reporter's Transcript ("RT") 642, 644.

De Sobrino encouraged Miles to form an inland group and expressed concerns that the Group's elections had not been conducted "by the rules." In early 1999, she advised Miles to make a complaint to the national organization of the Sierra Club, and to document it with bylaws, minutes and other records, which she should request from the Group. Trial Exhibit ("Ex.") 14.

Following de Sobrino's advice, on March 10, 1999, Miles wrote a letter to the Chair of the Group requesting the Group's bylaws, minutes and other documents. Ex. 5. Guenther denied the request, and Miles appealed the decision to Sierra Club Executive Director Carl Pope. Ex. 27, Guenther at 95-97; RT 1448-49. Pope instructed Guenther to produce the records, and told him that Miles, as a member, had a legal right to the records. RT 918, 1148, 1158-62, 1179, 1202-04.

Furious, Withers drafted the March 31, 1999 letter that prompted this litigation; Guenther added its first paragraph and signed it as the chair of the Mendocino/Lake Group.

App. F at A-51-56; RT 1051-52, 1496; Ex. 27, Withers at 55-56.

Guenther began the letter, which was sent on official Sierra Club letterhead, by complaining about what he considered Pope's "unreasonable" instruction to deliver the Group records to Pope's office by April 1, 1999. Guenther had not seen any of Miles' correspondence with Pope or de Sobrino, and had no idea of the nature of her complaint, though he did acknowledge having denied her request for records. App. F at A-52; RT 910-13, 1485-86; Ex. 27 Guenther at 95-97.

After admitting that he had never met Miles, Guenther stated in the letter that unnamed sources had advised him that "Mary Miles has been institutionalized in the past and is on the verge of a serious breakdown again," and that Guenther "consider[ed] her to be a most dangerous paranoid schizophrenic." A different anonymous member reportedly believed Miles "is very dangerous in a physical sense and is frightened of her. . . . I believe some may be willing to testify in court to Miles' irrational and frightening behavior." Guenther further indicated that Miles' presence at a Sierra Club meeting would likely require police presence. App. F at A-55.

The only one of the alleged sources who acknowledged making any of the statements in the letter was Withers, who wrote it. Three alleged sources denied providing the information, and there was no documentary evidence to support any of the statements. RT 484-91, 511-15, 518-20, 522-26, 939, 1050-52, 1437, 1473-78; Ex. 27 Withers at 18-22, 36-37; Ex. 27 Guenther at 35-39.

Withers mailed the letter not only to Pope but also to individuals, environmental organizations and two local